

Complaint

Mr C complains that Kapama Limited unfairly administered his account concerning the amount and validity of the debt.

Background

Mr C took out a loan for £100 with lender M in November 2012. M entered liquidation and Mr C's debt was sold to Kapama Limited. Mr C's account balance with Kapama now totals £1,061.

Mr C wrote to Kapama and raised a number of issues in relation to his account. He asked Kapama for evidence that this debt was enforceable. Mr C said the original loan was unaffordable and he was unhappy with the amount of interest and charges applied to the account.

Mr C also queried the Notice of Assignment, which he said Kapama sent after the deadline set by the Financial Conduct Authority (FCA). Mr C asked Kapama to write of his debt and remove any record of it from his credit file.

Kapama didn't uphold Mr C's complaint. It provided evidence of Mr C's loan agreement, and said it sent the Notice of Assignment before the deadline. It offered to reduce Mr C's balance to £530.50 as a full and final settlement of the debt.

Mr C didn't accept Kapama's offer and referred the complaint to our service. Our investigator looked at everything and recommended that Kapama needed to do more concerning Mr C's account. She found there were a number of issues our service couldn't consider as they happened when the original lender owned the debt. She was satisfied Kapama had sent a Notice of Assignment in the correct timeframe. And she said only a court could declare this debt as unenforceable.

But our investigator thought Kapama should have noticed that most of the balance on Mr C's account was made up of interest and charges. She asked Kapama to remove a total of £715 from the outstanding balance, leaving a total of £346 to pay.

Kapama accepted our investigators findings. Mr C disagreed. He said he hadn't received the Notice of Assignment before the deadline. He said the evidence Kapama provided to show they'd sent it was fraudulent.

Mr C asked for an ombudsman's decision, so the complaint has been passed to me to decide.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'll be upholding this complaint and for broadly the same reasons as our investigator. I'll explain why.

Our investigator has already explained why our service cannot consider Mr C's complaint points about unaffordable lending, and the enforceability of the debt, so I won't repeat their findings here. I'll look at Kapama's actions since it purchased the debt in December 2014.

Interest and charges on the account

I've checked the breakdown of Mr C's outstanding balance of £1,061. And I can see that a large portion of this debt is made up of charges. Following our investigators view, Kapama has now agreed to waive £665 of charges, which it agreed were excessive in proportion to the amount Mr C borrowed, and a second default charge of £50.

Of the remaining balance, I agree with our investigator that Mr C should repay the loan principal and the interest on this as he has had benefit of the funds. I also agree that Mr C should repay the remaining charges on the account. The remaining charges are £100 for debt collection charges, and a £25 default charge. I think these charges are reasonable for Mr C to repay and not excessive for agreements of this type. Mr C did borrow the money and default so it was fair for some interest and charges to be added because of that. So based on everything I've seen I don't think Kapama needs to waive any more fees or reduce the balance further.

Did Kapama send a Notice of Assignment?

Mr C says he first received a Notice of Assignment in January 2015 by email. He says this was outside of the timeframe set by the FCA under an application for voluntary variation and cancellation of permission. He thinks the debt should be written off.

Lender M needed to assign the debt to Kapama by 29 December 2014. Kapama says it sent a Notice of Assignment by post on 20 December 2014, which was within the timeframe set. It then followed this with an email version in January 2015. I've seen screenshots that show the Notice of Assignment was sent on 20 December, and the address Kapama held was the same as Mr C used to bring the complaint to our service.

Mr C says the evidence Kapama has provided is fraudulent. But he hasn't said why this is or provided anything further to support this statement. I appreciate Mr C feels strongly about this point, but I haven't seen any reason to doubt the evidence provided by Kapama. So based on this I'm satisfied this letter was sent in time.

As I think it more likely that Kapama sent a Notice of Assignment to Mr C before the deadline, I'm not going to require it to do anything further than what has already been agreed with our investigator.

My final decision

My final decision is that I uphold this complaint and I require Kapama Limited to:

- Remove £715 of charges from the outstanding balance to reduce it to £346

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 November 2019

Dan Prevett
Ombudsman